

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

JENERIC/PENTRON, INC.)	
Plaintiff,)	
)	
v.)	Civil Action Nos.
)	3:98-CV-818 (EBB) LEAD
DILLON COMPANY, INC.)	3:99-CV-1775 (EBB)
CHEMICHIL AG, and)	
CHEMICHIL, INC.)	
Defendants)	

DECLARATION OF WILLIAM J. CASS, ESQ.

1. I am associated with the law firm of Cantor Colburn LLP, of 55 Griffin Road South, Bloomfield, CT 06002.
2. I am trial counsel of record in this action.
3. Attached hereto in the Appendix are true and accurate copies of various exhibits which are submitted in support of the Plaintiff's Consolidated Opposition to the Defendants' Combined Motions for Summary Judgment and Cross Motion for Partial Summary Judgment for Infringement of the '884 Patent.
4. Exhibit 1 is a copy of the '791 patent file wrapper (with cited references).
5. Exhibit 2 is a copy of the '791 patent assignment (with cited references).
6. Exhibit 3 is a copy of the '884 patent file wrapper.
7. Exhibit 4 is a copy of the '884 patent assignment.
8. Exhibit 5 is a copy of relevant portions of the Preliminary Injunction Hearing Transcript, taken on December 8 - 10, 1998 (A,B,C respectively)
9. Exhibit 6 is a copy of the Declaration of Richard D. Sisson.
10. Exhibit 7 is a copy of the Declaration of Leah M. Reimer, Ph.D.

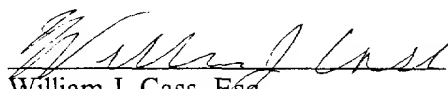
11. Exhibit 8 is a copy of the Declaration of Rudolf Michl.
12. Exhibit 9 is a copy of the Declaration of Michael A. Cantor, Esq.
13. Exhibit 10 is a copy of U.S. Patent 4,604, 366.
14. Exhibit 11, is a copy of portions of the deposition of Rudolf Michl.
15. Exhibit 12 is a copy of Exhibit 16 from Daniel Johnson's deposition re: Jelenko field test.
16. Exhibit 13 is a copy of Chemichl document dated January 4, 1995.
17. Exhibit 14 is a copy of Chemichl document dated February 6, 1995.
18. Exhibit 15 is a copy of a Fax from Michl to Dillon dated May 17, 1995
19. Exhibit 16 is a copy of a document dated December 8, 1994
20. Exhibit 17 is a copy of a Fax from Michl to Dillon dated May 17, 1995
21. Exhibit 18 is a copy of U.S. Patent No. 4,170,823
22. Exhibit 19 is a copy of U.S. Patent No. 5,389,402
23. Exhibit 20 is a copy of the 1993 Invention Disclosure
24. Exhibit 21 is a copy of the 1995 Invention Disclosure
25. Exhibit 22 is a copy of a Lab Notebook
26. Exhibit 23 is a copy of the SEMS Conventional Porcelain
27. Exhibit 24 is a copy of the SEMS '791 and '884 patents
28. Exhibit 25 is a copy of some Sales Calls Reports
29. Exhibit 26 is a copy of the Flanagan Declaration
30. Exhibit 27 is a copy of a Luvak Invoice, Analytical Report, Laboratory Notebook
31. Exhibit 28 is a copy of the Walker Deposition
32. Exhibit 29 is a copy of a Krombholz Article
33. Exhibit 30 is a copy of a Fax from Johnson to Michl dated October 10, 1994

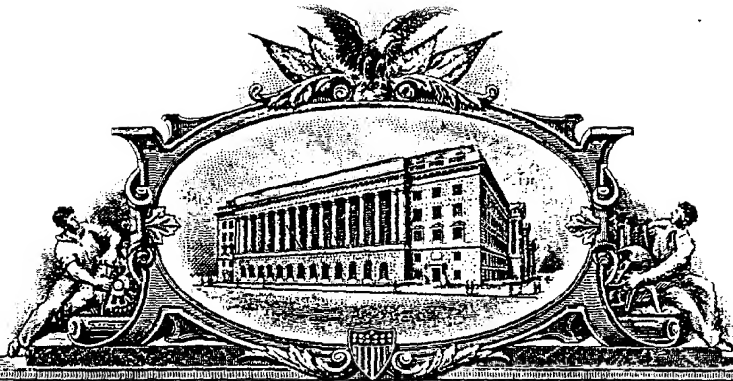
34. Exhibit 31 is a copy of a Document dated January 23, 1995
35. Exhibit 32 is a copy of a Document dated February 27, 1995
36. Exhibit 33 is a copy of a Document dated May 17, 1995
37. Exhibit 34 is a copy of a Document dated February 28, 1995
38. Exhibit 35 is a copy of a Document dated August 30, 1996
39. Exhibit 36 is a copy of the Notice of Taking Deposition of Rudolf Michl
40. Exhibit 37 is a copy of a Fax/Purchase Order dated August 19, 1996
41. Exhibit 38 is a copy of a Purchase Agreement dated August 2, 1996
42. Exhibit 39 is a copy of Non-Disclosure Agreement
43. Exhibit 40 is a copy of Letter from Johnson to Dillon dated December 21, 1994
44. Exhibit 41 is a copy of a Letter from Johnson to Dillon dated February 27, 1995
45. Exhibit 42 is a copy of Fax from Anderegg to Dillon dated January 28, 1998
46. Exhibit 43 is a copy of Dillon Declaration
47. Exhibit 44 is a copy of the Mackert Article
48. Exhibit 45 is a copy of LF-1 PFM Micrographs
49. Exhibit 46 is a copy of SEMS of Sensation
50. Exhibit 47 is a copy of the Leucite Crystal Size Analysis
51. Exhibit 48 is a copy of X-Ray Defraction Data/Cerpress
52. Exhibit 49 is a copy of X-Ray Defraction Data/Sensation
53. Exhibit 50 is a copy of MAPS for Sensation
54. Exhibit 51 is a copy of Crystal Size Standard
55. Exhibit 52 is a copy of X-Ray Defraction Data/Sensation
56. Exhibit 53 is a copy of Page 172 of Daniel Johnson's Deposition

57. Exhibit 54 is a copy of Jeneric/Pentron, Inc. v. Dillon Company, Inc. and Chemichl, Inc.,
205 F.3d 1377 (Fed. Cir 2000)
58. Exhibit 55 is a copy of the U.S. Patent No. 4,798,536
59. Exhibit 56 is a copy of the Walker Deposition
60. Exhibit 57 is a copy of Terrachen Samples
61. Exhibit 58 is a copy of the Secrecy Agreement
62. Exhibit 59 is a copy of the Plaintiff's Appellate Brief
63. Exhibit 60 is a copy of the Defendant's Appellate Brief
64. Exhibit 61 is a copy of the Plaintiff's Reply Brief
65. Exhibit 62 is a copy of Transcript before the Federal Circuit
66. Exhibit 63 is a copy of the U.S. Patent No. 5,698,019 to Frank
67. Exhibit 64 is a copy of the U.S. Patent No. 4,455,383
68. Exhibit 65 is a copy of E.B. Shand, Glass Engineering Handbook (1958)
69. Exhibit 66 is a copy of W. Vogel, Chemistry of Glass (1985)
70. Exhibit 67 is a copy of W.D. Kingery, Introduction to Ceramics, 2nd Ed. (1976)

Dated:

July 17, 2000


William J. Cass, Esq.



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME;

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

September 23, 1998

THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE RECORDS
OF THIS OFFICE OF THE FILE WRAPPER AND CONTENTS OF:

APPLICATION NUMBER: 08/614,044

FILING DATE: March 12, 1996

PATENT NUMBER: 5,653,791

ISSUE DATE: August 05, 1997

TITLE OF INVENTION:

TWO-PHASE DENTAL PORCELAIN COMPOSITION

INVENTOR(S):

PANZERA, CARLINO; DIMEGLIO, LISA M.

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

N. WOODSON

Certifying Officer

Declaration, Power of Attorney

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled TWO PHASE DENTAL PORCELAIN COMPOSITION.

the specification of which (check one) [x] is attached hereto.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above, and that it contains a full, clear, concise and exact description of the subject matter for which a patent is sought.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

			Priority Claimed	
(Number)	(Country)	Day/month/year filed	<input type="checkbox"/>	<input type="checkbox"/>
			Yes	No
(Number)	(Country)	Day/month/year filed	<input type="checkbox"/>	<input type="checkbox"/>
			Yes	No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status	(Patented, pending, abandoned)

[] (Check if applicable) I hereby authorize the U.S. attorneys or agents named herein to accept and follow instructions from as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys or agents named herein and myself. In the event of a change, I will notify in writing the U.S. attorney or agent named herein.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint:

Barry Kramer, Reg. No. 20,622

Allen D. Brufsky, Reg. No. 21,056

Kevin M. Mason, Reg. No. 36,597

Michael P. Dilworth, Reg. No. 37,311

Scott D. Wofsy, Reg. No. 35,413

of the firm of CUMMINGS & LOCKWOOD, Four Stamford Plaza, P.O. Box 120, Stamford, Connecticut 06904-0120, Telephone (203) 351-4522 Fax (203) 351-4499

my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, declaration, power of attorney, and this petition.

Full name of sole or first inventor

Carlino Panzera

First Inventor's Signature

Date 3/8/96

Residence

7 Huntsman Lane, Belle Mead, NJ 08502

Citizenship

U.S.A.

Post Office Address

Full name of second joint inventor, if any

Lisa M. DiMeglio

Second Inventor's Signature

Date 3/9/96

Residence

1201 Holly Court, Monmouth Junction, NJ 08852

Citizenship

U.S.A.

Post Office Address

Applicant or Patentee: Cartlin, Jozera, et al. Attorneys: 499-400-058
Serial or Patent No.: Not yet signed Docket No.: JGP-290
Filed or Issued: Concurrently herewith
For: TWO PHASE DENTAL PORCELAIN COMPOSITION

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN Jeneric/Pentron Incorporated
ADDRESS OF CONCERN 53 N. Plains Industrial Road, P.O. Box 724
Wallingford, CT 06492-0724

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9 (d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled by inventor(s) described in

- ☒ the specification filed herewith
☐ application serial no. _____, filed _____
☐ patent no. _____, issued _____

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9 (d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9 (d) or a nonprofit organization under 37 CFR 1.9 (e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

NAME _____
ADDRESS _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28 (b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Martin L. Schulman
TITLE OF PERSON OTHER THAN OWNER Executive Vice President
ADDRESS OF PERSON SIGNING 53 N. Plains Industrial Road, Wallingford, CT 06492

SIGNATURE Martin L. Schulman

DATE 3/11/96

499400.058 (JGP-290)

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:)
)
Carlino Panzera, et al.)
)
Serial No.: Not Yet Assigned)
)
Filing Date: March 12, 1996)
)
Title: TWO PHASE DENTAL)
PORCELAIN COMPOSITION)

Assistant Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

"Express Mail" mailing label number: EM276822925US
Date of Deposit: March 12, 1996

I hereby certify that the attached U.S. Patent Application, consisting of 15 pages, including 4 claims and 1 page of abstract; Declaration, Power of Attorney and Petition; Assignment with its cover letter; verified statement claiming small entity status; cover letter; return postal card and a check in the amount of \$375.00 covering patent application filing fee and a check in the amount of \$40.00 covering assignment recording fee are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.

Jonke Lehigh-Norton

(Typed or printed name of person mailing paper or fee)

[Signature]

(Signature of person mailing paper or fee)

Respectfully submitted,

[Signature]

Date: March 12, 1996

Michael P. Dilworth, Reg. No. 37,311
Attorney for Applicants
CUMMINGS & LOCKWOOD
Four Stamford Plaza
P.O. Box 120
Stamford, CT 06904-0120
(203) 351-4192

08/614044

ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, I/we the undersigned,

Carlino Panzera of 7 Huntsman Lane, Belle Mead, NJ
Lisa M. DiMeglio of 1201 Holly Court, Monmouth Junction, NJ 08852

who, has/have created a certain invention for which an application for United States Letters Patent has been executed concurrently herewith and is entitled

TWO PHASE DENTAL PORCELAIN COMPOSITION

Do hereby sell, assign and transfer to

Jeneric/Pentron, Incorporated, a Connecticut corporation
whose address is

53 North Plains Industrial Road
P.O. Box 724
Wallingford, CT 06492

its successors, assigns, and legal representatives, the full and exclusive right to said invention and said application and to any and all inventions described in said application for the United States, its territorial possessions and all foreign countries, and the entire right, title and interest in and to any and all Letters Patent which may be granted therefore in the United States, its territorial possessions and all foreign countries; and in and to any and all continuations-in-part, continuations, divisions, substitutes, reissues, extensions thereof, and all other applications for Letters Patent relating thereto which have been or shall be filed in the United States, its territorial possessions and/or any foreign countries, and all rights, together with all priority rights, under any of the international conventions, unions, agreements, acts, and treaties, including all future conventions, unions, agreements, acts, and treaties;

Agree that Jeneric/Pentron Incorporated hereinafter referred to as Assignee, may apply for and receive Letters Patent for said invention and said inventions, hereinafter referred to as said invention in its own name, in the United States, its territorial possessions, and all foreign countries; and that, when requested to carry out in good faith the intent and purpose of this assignment, at the expense of said Assignee, its successors, assigns and legal representatives, the undersigned will execute all continuations-in-part, continuations, divisions, substitutes, reissues, and extensions thereof, execute all rightful

PATENT

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oaths, assignments, powers of attorney and other papers, testify in any legal or quasi legal proceedings; communicate to said Assignee, its successors, assigns, and legal representatives all facts known to the undersigned relating to said invention and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or legal representatives shall consider desirable for aiding in securing, maintaining and enforcing proper patent protection for said invention and for vesting title to said invention and all applications for patents on said invention in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

IN TESTIMONY WHEREOF, I/we have hereunto set my/our signature(s):

Date: 8 March 1996 Carlino Panzera (L.S.)
Carlino Panzera

(Witness) Robert Brighenti

(Witness) Jana N. Pruden

Date: 3/8/96 Lisa M. DiMeglio (L.S.)
Lisa M. DiMeglio

(Witness) Robert Brighenti

(Witness) Jana N. Pruden

S2089531.DOC 03/07/96